IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 86 OF 2005

Dharamchand Amarchand Jain. ... Applicant.

Versus.

Mohanraj R.Chhajjed & others. ... Respondents.

Shri S.Y.Katkade i/by V.Nirmala Gopal for the Applicant.

Ms.S.D.Shinde, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 17th October, 2005.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned A.P.P. This Revision Application is filed by the Applicant for challenging the order dated 14th December 2004 by which the Respondent No.1 was acquitted of offence punishable under section 381 read with section 471 of the Mumbai Municipal Corporation Act. On the basis of the complaint filed by the Applicant with the Mumbai Municipal Corporation, a complaint was lodged by the Mumbai Municipal Corporation. The grievance in the complaint is that the Respondent No.1 unauthorisedly installed an air conditioner in the premises in his possession and therefore, notice was issued under section 381 of the Mumbai Municipal Corporation Act.

2. The grievance of the learned Advocate for the Applicant is that the other tenants in the building were not examined who were suffering because of the nuisance

due to the installation of the air conditioner and therefore, a case is made out for remanding the matter.

3. A perusal of the impugned Judgment and order shows that the notice under section 381 of the Mumbai Municipal Corporation Act is based on the inspection report of a Junior Engineer. The learned trial Judge has observed that the inspection report produced on record nowhere discloses the date of inspection of the site. The learned Judge has noted that the Junior Engineer concerned deposed in his evidence that he did not inquire from the residents of the first floor of the building about the nuisance. The learned Judge has also noted that the Applicant had issued the notice to the Respondent No.1 calling upon him to vacate the premises in his possession. Considering all these aspects, the learned Judge found that no case is made out for convicting the Respondent No.1.

4. No case is made out for interference. The Criminal Revision Application is rejected.

Judge.